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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,035	01/02/2002	Markus Baumann	RD7750USCIP	7062

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
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WILMINGTON, DE 19805

EXAMINER

EINSMANN, MARGARET V

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,035

Applicant(s)

BAUMANN ET AL.

Examiner

Margaret Einsmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, drawn to a pattern dyeing process, classified in class 8, subclass 485.
- II. Claims 11-19, drawn to coated articles, classified in class 428, subclass 96.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product can be made by a materially different process such as by coloring with a composition comprising said stainblocker instead of in two separate steps as claimed.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for one Group is not required for Group 2, restriction for examination purposes as indicated is proper.

During a telephone conversation with George Medwick on 7/28/03 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huffman, US 4,043,749 or Kelley, US 5,131,918 or Anton, US 4,078,378 in view of Elgarhy, US 5,681,620, Elgarhy et al. US 5,549,963, Collier, US 6,387,448, Buck, US 5,725, 889 and Pacifici, US 5,925,149.

Huffman and Kelley and Anton disclose dyeing textiles composed of anionic dyeable nylon and cationic dyeable nylon with both acid dyes and cationic dyes as

applicant claims in step 1(a). See Huffman col 2 lines 45 r seq; see Kelley's abstract and examples 5 and 6 in columns 8 and 9. Anton teaches dyeing fibers having an acid dyeable core surrounded by a basic dyeable sheath with both acid dyes and basic (that is cationic) dyes. Accordingly the dyed textile surface claimed in step 1(a) is well known in the art. Neither reference teaches treating the above dyes substrate with a stainblocker. The two **Elgarhy** patents and **Collier** teach treating acid dyeable nylon, that is unmodified nylon 6 or nylon 66 or both, with stainblockers. **Buck** treats polyamide or wool substrates.

Elgarhy et al., 5,549,963 discloses many stain blockers for use with nylon 6 and nylon 66 in column 10. They are both anionic and nonionic, and include resoles and acrylics. Example 1 discloses treating nylon 66 in an exhaust process with 2.0% resole A at a pH of 2.5 at 75° C for twenty minutes, rinsing and drying. See column 9 lines 59-63. The evaluation is done on a scale of 1-8. Initial stain resistance of that treated example was 8 on a scale of 1-8. Accordingly, it appears to be at least equivalent to applicant's claimed stain resistance of 9 on a scale of 1-10 because on Elgarhy's scale, 8 is excellent stain resistance. See col 7 line 15. Elgarhy, 963 gives the general instructions for applying the stain resist at col 6 lines 44 et seq. They may be applied by exhaust or continuous methods such as padding, flooding, foam or spray, at a pH of below 5, thus making padding equivalent to the process exemplified in example 1. Applicant's process of passing the substrate through a bath for 5-30 seconds and removing the excess water is a conventional padding process. Rinsing, suctioning and drying is also conventional.

Elgarhy, 5,681,620 discloses treating nylon with stain blockers by either continuous or exhaust methods. He states that in all methods the solution of stain resist can be applied at a hot or cold temperature. Col 7 lines 22-64. Padding, rinsing and drying is described in col 7; treating for 20 minutes at a pH of 2-3, rinsing, squeezing and drying is described in col 8 second paragraph.

Collier et al. list all application types See col 7 lines 17-58. They state that the temperature at which the fibers are contacted by the aqueous solution may range from ambient to up to 100°C, inclusive of applicant's claimed range.

Buck teaches providing a stain-resistant finish to polyamide substrates by applying a nonionic resole with or without a surfactant at a pH of 6-7 by many different methods including padding, which is applicant's claimed process. See abstract, col 2 line 55 and col 4 lines 6-14.

The above four references do not teach treating the substrates of Huffman or Kelley or Anton which comprise both acid dyeable and cationic dyeable fibers with stainblockers. They teach only unmodified nylon 6 or nylon 66 as the substrate.

Pacifici is applied for his teaching that cationic dyeable nylon is inherently resistant to acid dyes, which is the stain that applicant's stain blockers are resisting. See col 3 lines 15-17.

It would have been obvious to one having skill in the art, a textile engineer, to apply the stain resist (stainblocker) to the substrates of Huffman or Anton or Kelley by the methods taught by Elgarhy and/or Collier or Buck even though those three references do not treat the blended textile comprising both acid dyeable and cationic


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dyeable nylon because they teach that the acid dyeable fiber portion will be protected by the stain resist treatment, while Pacifici teaches that the cationic portion is inherently acid dye stain resistant, thereby not needing a separate stain blocking treatment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 703-308-3826. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Margaret Einsmann
Primary Examiner
Art Unit 1751

August 7, 2003